

consideration (since the amendments amplify issues previously discussed throughout prosecution and raised by the Examiner in the previous Office Action: (c) does not present any additional claims without canceling the corresponding number of finally-rejected claims; and (d) places the application in better form for appeal, should an appeal be necessary. The Amendment was necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the Amendment is thus respectfully requested.

Claims 50 and 51 were rejected under 35 U.S.C. §112, first paragraph. The Office Action contends that the exclusion of a rear air layer is not supported in the original specification. To the contrary, however, such a limitation is in fact supported throughout the specification as the described sound absorbing structures are disposed adjacent a sound source without any "air layer." Further support is evidenced in Figures 4B-10B, 20B-22B, and 23-25 and corresponding description. See also the description of the examples wherein through holes are formed by punching a foam member (e.g., page 24, line 3 *et seq.*) and the examples wherein foam members are stacked (e.g., page 39, line 10 *et seq.*). Withdrawal of the rejection is thus respectfully requested.

Claims 1-3, 6-11, 14, 15, 17, 19, 22-25, 28-30, 44 and 48-51 were rejected under 35 U.S.C. §102(b) over International Patent Publication WO 96/28297. This rejection is respectfully traversed.

The Office Action substantially maintains this rejection from the previous Office Action mailed November 29, 2001. In the "Response to Arguments" section on page 4 of the present Office Action, the Examiner provides that "[t]here is no evidence in the

record that shows the examiner that the sound absorbing element of WO'297 distinctly fails to meet the hardness range as set forth in the claims." Submitted concurrently herewith is a factual Declaration under 37 C.F.R. §1.132, providing such evidence specifically requested by the Examiner. As set forth in the 132 Declaration, a material according to WO '297 is necessarily harder than the material according to the claimed invention due to the structure described therein. Thus, for the reasons discussed in the Amendment filed February 27, 2002 and those discussed in the Declaration under 37 C.F.R. §1.132, Applicants respectfully submit that the rejection is misplaced.

With respect to claims 50 and 51, the Office Action contends that "WO '297 discloses the sound absorbing structure is without a rear air layer," referring to examples 7-9 and comparative example 8 in column 18, line 22. Since the WO '297 publication is not formatted in column and line numbers, the Applicants assume that the Examiner is referring to the U.S. counterpart of the subject International publication. In the comparative example 8, the air layer is set at 0 mm, and as shown in Figure 28, such a configuration renders the WO '297 structure to be unacceptably ineffective. The comparative example is merely provided to illustrate why such an air layer is required. Applicants respectfully submit that in fact this discussion in the '297 publication illustrates the Applicants' point that the structure described in the '297 publication indeed requires an air layer. The exclusion of an air layer is in direct contrast with the specific teachings of the '297 publication, and Applicants submit that the rejection on this ground is also misplaced.

With respect to the dependent claims, Applicants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim. Reconsideration and withdrawal of the rejection are respectfully requested.

The rejections set forth in paragraphs 7-10 of the Office Action are respectfully traversed for the reasons set forth in the Amendment filed February 27, 2002 and in view of the 132 Declaration submitted herewith. That is, the Applicants respectfully submit that the cited secondary references do not correct the deficiencies noted in WO '297 with respect to hardness characteristics. Reconsideration and withdrawal of the rejections are respectfully requested.

In view of the foregoing remarks, Applicants respectfully submit that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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